

FOURTEENFISH MASTER TERMS AND CONDITIONS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in the Agreement.

Acceptable Use Policy: means Optum's acceptable use policy (as may be made available to the Customer (and updated) from time to time).

Additional Terms: means the additional terms and conditions (if any) set out in the relevant Order Form, including in respect of the relevant Solution(s), Service(s) Subscription(s), Consultation Credits and/or Optum Product(s) detailed therein.

Agreement: means this master services agreement, consisting of these Master Terms, the schedules (including, any and all Order Forms as may be entered into by the parties from time to time) and any attachments.

AKT Package: means Optum's applied knowledge test training package including full access to the Library.

Appraisal Toolkit: means Optum's clinician appraisal toolkit product that facilitates a clinician's appraisal through logging training and development and recording and sharing information with Appraisers, Regulatory Bodies and where relevant, the Customer.

Appraisers: means the qualified appraisers that:

- (a) undertake clinician appraisals on behalf of a Regulatory Body; and/or
- (b) deliver part of the Customer Service to Customer Subscriber(s) on behalf of the Customer as authorised by the Customer.

Authorised Users: means those users that the Customer permits from time to time to access and use the relevant Solution(s) and/or Service(s) in accordance with the terms of the Agreement.

Business Day: means any day between Monday and Friday (other than any public holiday in England and Wales).

Charge(s): means the fees and charges identified or referred to as such in the relevant Order Form(s) in respect of the relevant Solution(s), Subscription(s) and/or Service(s).

Commencement Date: means the Effective Date of the first Order Form entered into as between the parties (which references these Master Terms).

Community: means either a Private Community or a Public Community as specified in a relevant Order Form.

Community Rules: means Optum's rules of use of any Community available on one or more of Optum's websites (including <https://www.fourteenfish.com/>) as may be amended or updated by Optum from time to time.

Confidential Information: means information (in any format) that falls within any of the following categories:

- (a) it relates to, includes or comprises the existence or terms and conditions (or both) of the Agreement;
- (b) it is Customer Data or Optum Data;
- (c) it forms part of the Optum Materials;
- (d) it is marked as "confidential" (or similar);
- (e) it is of a nature that a reasonable person would (in all the circumstances) consider confidential, including:
 - (i) information concerning a party's business operations or affairs, including research and development efforts, inventions, drawings, models, trade secrets, know-how, products, processes, techniques, equipment, marketing, market opportunities, plans, intentions, relationships with suppliers and customers, finances, personnel, computer software, and algorithms; and
 - (ii) similar information of third parties that a party maintains in confidence; and/or
- (f) any combination of the foregoing.

Consult: means the provision of recorded telephone and video call functionality to FourteenFish Users (including Customer Subscribers, where relevant) so that they can record consultations they undertake with patients as part of such clinician's appraisal requirements.

Consultation Credits means credits of 1 minute each that can be purchased by the Customer so that Customer Subscribers can use Consult.

Contract Year: means: (a) a period of 12 months commencing on the Commencement Date; and (b) thereafter a period of 12 months commencing on each anniversary of the Commencement Date; provided that the final Contract Year shall end on the expiry or termination of the Term.

Customer: means the party referred to as such in the relevant Order Form.

Customer Product: means any content, materials and information proprietary to the Customer, that may or may not facilitate a Customer Service, made available to Customer Subscriber(s) within the FourteenFish Solution in accordance with a relevant Order Form.

Customer Service: means the Customer's appraisal or other services that it makes available to FourteenFish Users through a Customer Product within the FourteenFish Solution as set out in a relevant Order Form.

Customer Data: means:

- (a) any personal data in respect of which the Customer is a Data Controller; and
- (b) any data controlled by or provided by the Customer or provided by FourteenFish Users to the Customer through the FourteenFish Solution or in the possession of the Customer.

Customer Subscriber(s) means FourteenFish Users (present or future) that the Customer purchases a Subscription and/or Consultation Credits for in accordance with the terms of this Agreement.

Data Controller: has the meaning as defined under the Data Protection Legislation.

Data Processor: has the meaning as defined under the Data Protection Legislation.

Data Protection Legislation: means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Data Subject: means an identified or identifiable individual. An "identifiable" individual is one who can be identified, directly or indirectly, including by reference to an identification number or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity.

Documents: means any documentation in whatever format, including, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Effective Date: means the date identified as such in the relevant Order Form entered into between the parties.

FFARMS: means Optum's proprietary software solution known as the FourteenFish Appraisal

Revalidation and Management System which allows the Customer to view information regarding its Customer Subscriber's appraisals (once submitted by such Customer Subscriber) as well as providing the functionality of the Management Portal.

FourteenFish Solution: means Optum's proprietary software solution known as FourteenFish through which users can access various appraisal and training products and services.

FourteenFish Users: means users of the FourteenFish Solution.

FourteenFish User Terms: means the end user terms upon which the FourteenFish Users are permitted to use the FourteenFish Solution available here: <https://www.fourteenfish.com/terms> and <https://www.fourteenfish.com/privacypolicy>.

In-put Material: means any and all Documents, information and any other materials provided by the Customer relating to the relevant Solution(s), Product(s) and/or Service(s).

Intellectual Property Rights: means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Library: means Optum's information library on common general practice and other topics.

Licence Restrictions: means the restrictions (if any) on the licence to access and use the relevant Solution(s) specified as such in the relevant Order Form (in accordance with clause 3.1.1, as amended from time to time under clause 3.5).

Live Date: means that date upon which the first of the following occurs:

- (a) the Customer first receives access to FFARMS and/or the Management Portal (as appropriate); or
- (b) the Customer is able to designate its Subscription(s) to a Customer Subscriber.

Losses: means any claims, demands, actions, proceedings, liabilities, costs (including, court costs and reasonable legal fees), expenses, fines, monetary penalties, losses and/or damages.

Management Portal: means Optum's proprietary software solution that allows the Customer to manage its Subscriptions and/or Consultation Credits for

Customer Subscribers, manage the Customer's Communities and see relevant information in respect of use of its Subscriptions (and related Products) and/or Consultation Credits by Customer Subscribers.

Master Terms: means these terms and conditions.

Minimum Specification: means the minimum IT environment requirements (if any) referred to in the relevant Order Form in respect of the relevant Solution(s) (as may be updated from time to time).

NMC Revalidation: means Optum's Nursing and Midwifery Council revalidation service.

Operational Hours: means 9:00am to 5:00pm on any Business Day.

Optum: means Egton Medical Information Systems Limited (t/a Optum).

Optum Data: means any data controlled by, provided by or in the possession of Optum, including (where the context admits) the relevant Solution(s).

Optum Materials: means any and all Documents, information and materials provided by Optum in relation to the Solution(s), Optum Product(s) and/or the Service(s) (including, any data, reports and specifications (as the same may be updated from time to time)).

Optum Product(s): means any products made available by Optum to FourteenFish Users within the FourteenFish Solution including the Appraisal Toolkit, the Library, Consult, Surveys, the AKT Package, RCA Plus and NMC Revalidation (as amending or updated from time to time).

Order Form: means an order form (including any online order form) in such format as may be provided by Optum from time to time (incorporated into and forming part of the Agreement as a schedule hereto) which describes the relevant Service(s), Optum Product(s), Subscription(s), Consultation Credits and/or Solution(s), including, details of the deliverables (if any), applicable service levels, Charges and/or any other applicable additional terms and conditions not detailed in these Master Terms.

Personal Data: has the meaning as defined under the Data Protection Legislation.

Product: means either an Optum Product or a Customer Product.

Prohibited Act: means

- (a) to directly or indirectly offer, promise or give any person working for or engaged by a party a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity;
- (b) (to directly or indirectly request, agree to receive or accept any financial or other advantage as an

inducement or a reward for improper performance of a relevant function or activity in connection with the Agreement

- (c) an offence: (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); (ii) under legislation or common law concerning fraudulent acts; or (iii) defrauding, attempting to defraud or conspiring to defraud a party; and/or
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.

Private Community: means an online community hosted by Optum that can only be accessed by FourteenFish Users authorised by the Customer to view and participate in.

Public Community; means an online community hosted by Optum that can be accessed by any FourteenFish User(s) to view and participate in.

RCA Plus: means Optum's remote consultation assessment package, which includes full access to the Library.

Retail Prices Index: means the Retail Prices Index as published by the UK Office for National Statistics from time to time, or failing such publication, such other index as Optum (acting reasonably) may determine most closely resembles such index.

Regulatory Body: means a relevant regulatory body that FourteenFish Users are required to share information regarding their appraisal with and chose to do so through the FourteenFish Solution.
Regulatory Bodies shall be construed accordingly.

Service(s): means the service(s) to be performed by Optum pursuant to the Agreement (including, those detailed at clause 5.7 and more fully specified in the applicable Order Form(s)).

Sites: means the Customer's business premises located within the Territory.

Solution: means the systems, applications and software (including FFARMS and/or the FourteenFish Solution and/or the Management Portal as appropriate), details of which are set out in the applicable Order Form(s), together with any associated Optum Materials provided by Optum to the Customer.

Subscription; means a subscription to use one or more Product(s) through the FourteenFish Solution as purchased by the Customer for use by Customer Subscriber(s) under the terms of an Order Form.

Survey(s): means the colleague and patient feedback survey product that allows a clinician to obtain feedback during their appraisal revalidation cycle.

Term: means the term of the Agreement, as determined in accordance with clause 2.1.

Territory: means the United Kingdom (and such other territories or countries as may be agreed in writing from time to time).

Transaction Data: means fully anonymised data in respect of use of the Solutions(s) and/or Optum Products by the Customer and/or FourteenFish Users (including Customer Subscribers).

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT: means applicable value added tax chargeable under English law for the time being (and any similar additional or replacement tax).

1.2 Clause, attachment, schedule and paragraph headings shall not affect the interpretation of the Agreement.

1.3 A reference to: (i) a person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assignees; (ii) a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; (iii) words in the singular shall include the plural and vice versa; (iv) one gender shall include a reference to the other genders; and (v) a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 References to clauses and schedules are to the clauses of, and schedules to, the Agreement; references to paragraphs are to paragraphs of the relevant schedule.

1.5 Any words following the terms 'including', 'include', 'in particular', 'for example' or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.6 Where the terms of any Order Form conflict with the terms set out in the main body of the Agreement, the terms of the Order Form shall prevail. For the avoidance of doubt, Optum Product(s), Services and/or Solutions referred to as defined terms in these Master Terms will be as defined or described in the relevant Order Form (or as otherwise notified by Optum in writing).

1.7 All of these Master Terms shall apply to the supply of Optum Product(s), Solutions and Services except where application to one is specified.

2. COMMENCEMENT AND DURATION

2.1 Agreement Term: Subject to the remaining terms of this clause 2, the Agreement is effective as of the

Commencement Date and shall continue until terminated in accordance with the Agreement.

2.2 Order Form Term: Unless the parties expressly agree otherwise in an Order Form, the Order Form Term in respect of each Order Form (being the period during which the relevant Order Form is live) shall commence on the relevant Order Form Effective Date, and subject to any earlier termination of the Agreement and/or the relevant Order Form, continue for a 12 month period and thereafter shall automatically renew on an annual basis (each an "Order Form Year"), subject to the Customer's continued payment of the relevant Charges, unless and until:

2.2.1 it is terminated by either party giving not less than three (3) months' notice in writing to the other party, such notice to expire at the end of the relevant Order Form Year; or

2.2.2 termination or expiry of the Order Form or the Agreement in accordance with its terms.

2.3 Subject to the Customer's compliance with the Agreement, Optum shall (subject to any earlier termination in accordance with the terms of the Agreement) provide to the Customer the Services and/or relevant Solution(s) and/or make available the Subscription(s) to the Customer Subscriber(s) under each agreed Order Form during the relevant Order Form Term.

2.4 For the avoidance of doubt, the termination of a single Order Form shall not (in itself) result in the termination of the Agreement, or any other Order Form (or the provision of the relevant Service(s), Subscription(s), Optum Product(s) and/or Solution(s) provided thereunder).

3. PURCHASING PROCEDURE

3.1 The Customer may: (i) purchase a licence to access and use a particular Solution; (ii) purchase provision of the relevant Optum Product(s) and/or Service(s); or (iii) purchase Subscription(s) (or any combination thereof) by entering into one or more Order Forms (which are then incorporated into, and form part of, the Agreement) with Optum which shall specify the relevant:

3.1.1 Solution(s) which Optum will license to the Customer and the type and extent of any Licence Restrictions which apply (for example, number of concurrent Authorised Users; number of locations; named Authorised Users etc.);

3.1.2 Service(s) which Optum is to deliver (which may include, support services, hosting services, consulting services (such as training, consultancy, project management, design or development services) as appropriate);

3.1.3 Optum Product(s) which Optum is to deliver (either direct to the Customer or via Subscription(s));

3.1.4 Charges payable in respect of the Solution(s), Optum Product(s), Subscription(s) and/or Service(s) to be provided; and

3.1.5 the period during which Optum will give access to the relevant Solution(s) and/or deliver the relevant Service(s), Subscription(s) and/or Optum Product(s).

3.2 In respect of any Order Forms which are to be:

3.2.1 signed by the Customer; or

3.2.2 made available electronically and completed by the Customer (for example, by clicking a button marked 'Accept' or ticking the appropriate boxes),

then in each case this will constitute an offer by the Customer to purchase the relevant Solution(s), Optum Product(s), Subscription(s) and/or Service(s) as specified in the Order Form under these Master Terms and any or all of: (i) the execution and return of a signed copy of the Order Form by Optum; (ii) an acknowledgement of the Order Form (including, one sent by email); (iii) the issuing of an invoice; or (iv) Optum's commencement of work pursuant to the Order Form, will mean that the Order Form is deemed to have been entered into so as to form part of the Agreement.

3.3 For the avoidance of doubt, any standard terms and conditions of the Customer attached to, enclosed with, or referred to in any Order Form or otherwise shall not form part of the Agreement or otherwise govern the delivery of any Solution(s), Optum Product(s), Subscription(s) or Service(s).

3.4 Without prejudice to clause 3.3, if the Order Form contains any Additional Terms provided by Optum then such terms shall be deemed incorporated into the Agreement (in respect of the Solution(s), Service(s), Subscription(s) or Optum Product(s) to which they relate) and to the extent that there is any conflict between the Additional Terms and these Master Terms, the Additional Terms shall prevail.

3.5 If the Customer wishes to reduce the scope of any Licence Restrictions (for example, by increasing the maximum number of concurrent Authorised Users) then it will notify Optum identifying the relevant Solution(s) and the changes required and Optum will inform the Customer as to any consequential changes to the Charges and if the Customer agrees to such changes then Optum will reduce the Licence Restrictions and issue a revised invoice to the Customer accordingly.

3.6 For the avoidance of doubt, any quotation given by Optum shall not constitute an offer, and is only valid for a period of twenty (20) Business Days from its date of issue.

4. Optum'S OBLIGATIONS

4.1 Optum shall use its reasonable endeavours to:

4.1.1 deliver the Service(s) and/or Optum Product(s) and/or Subscription(s) and provide the Solution(s) in accordance (in all material respects) with the terms of the Agreement;

4.1.2 provide relevant Appraisers with access to such Solutions as they require to undertake appraisal services on behalf of the Customer, Regulatory Bodies and/or FourteenFish Users, as appropriate (subject to such Appraisers creating a FourteenFish User account and agreeing to the FourteenFish User Terms);

4.1.3 provide any Service(s) with reasonable care and skill;

4.1.4 meet any performance dates specified in the Agreement but any such dates shall be estimates only and shall not be of the essence in relation to the delivery of any Optum Product(s) and/or Subscription(s) and/or Service(s) and/or provision of any Solution(s); and

4.1.5 observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of the Sites and that have been reasonably communicated to it, provided that it shall not be liable if, as a result of such observation, it is in breach of any of its obligations under the Agreement (including, any applicable Order Form(s)).

4.2 Optum does not warrant that the use (by the Customer or any FourteenFish User/Customer Subscriber) of any Optum Product(s), Service(s), Subscription(s) and/or Solution(s) will be uninterrupted or error-free.

5. SOLUTION(S) AND SERVICE(S)

5.1 Optum hereby grants the Customer a non-exclusive, non-transferable, limited, personal and revocable right during the term of the relevant Order Form(s) to access and use the relevant Solution(s) (and related Optum Materials) detailed therein (in object code form only) from the Sites and in the manner contemplated in the Agreement.

5.2 The Solution(s) licensed to the Customer under the Agreement may include the provision of one or more Service(s) and/or Optum Products as detailed in the relevant Order Form(s).

5.3 The Customer may exercise the rights granted to it by virtue of clause 5.1:

5.3.1 through the Authorised Users;

5.3.2 only for the internal business purposes of the Customer; and

5.3.3 subject to any Licence Restrictions specified in the relevant Order Form.

5.4 In respect of any Solution(s) which is hosted by (or on behalf of) Optum, it shall, subject to any planned down time, use its reasonable endeavours to make the relevant Solution(s) available for use by the Customer during Operational Hours. Should the relevant Solution(s) not be available during Operational Hours then the Customer may contact Optum for support Service(s) as detailed in clause 9.

5.5 Optum may apply (remotely or in person) any updates, upgrades or patches in respect of any Solution(s) from time to time. If any such application is scheduled to take place during Operational Hours and is likely to cause any disruption to the Customer's use of the same then Optum shall endeavour to provide reasonable advance notice (but the Customer acknowledges this may not always be possible in cases of emergency).

5.6 Optum may restrict or suspend access to or use of any Service(s) or Solution(s) if it needs to undertake any planned maintenance or if it (acting reasonably) feels this is necessary for security or clinical safety purposes.

5.7 In respect of the Service(s) to be provided by Optum under the Agreement, the relevant Order Form shall set out:

5.7.1 the scope of the Service(s) to be provided;

5.7.2 any agreed timescales for the delivery of the Service(s) (and any agreed deliverables); and

5.7.3 the applicable Charges (including, whether the Service(s) are to be provided on a fixed price or a time and materials basis).

5.8 Optum reserves the right to change (from time to time) any Service or Solution or Optum Product(s) provided under the Agreement at any time provided that the performance of the relevant Service, Solution or Optum Product(s) is not materially adversely affected. Such changes may include:

5.8.1 introducing or removing features of a Service or Solution or Optum Product(s); and/or

5.8.2 replacing the relevant Service, Solution or Optum Product(s) with an equivalent Service, Solution or Optum Product(s).

6. SUBSCRIPTIONS AND CONSULTATION CREDITS

6.1 Where the Customer has purchased Subscription(s) under an Order Form, Optum shall use its reasonable endeavours to provide the relevant Optum Product(s) to the Customer Subscriber(s) (at no additional charge to such Customer Subscriber).

6.2 The Customer will be able to manage its Subscription(s), Consultation Credits and Customer Subscribers through FFARMS or the Management Portal, as appropriate (including what Subscription(s) and/or Consultation Credits each Customer Subscriber is entitled to receive).

6.3 Where a Customer Subscriber has been identified in accordance with clause 6.2, if the Customer Subscriber is:

6.3.1 already a FourteenFish User, they will automatically be provided with access to the relevant Product and/or Consultation Credits and will be notified of the same; or

6.3.2 not an existing FourteenFish User, they will receive an e-mail inviting them to create a FourteenFish User account and, upon successful creation of their account, will be provided with access to the relevant Product and/or Consultation Credits and will be notified of the same.

6.4 The Customer can customise the text included within the notifications referred to in clause 6.3 within FFARMS or the Management Portal, as appropriate.

6.5 Each Subscription and/or Consultation Credit is:

6.5.1 valid for a period of 12 months from the Live Date, or anniversary thereof; and

6.5.2 once allocated to a Customer Subscriber, non transferrable,

regardless of when a Customer Subscriber actually uses such a Subscription and/or Consultation Credit or not.

6.6 Optum gives no guarantee that any Customer Subscriber will either create a FourteenFish User account (if not already such a user) and/or actually use the Subscription and/or Consultation Credits purchased by the Customer for such user.

6.7 The Customer agrees and acknowledges that all use of the FourteenFish Solution(s) by each Customer Subscriber(s) is subject to the FourteenFish User Terms as agreed between Optum and the relevant Customer Subscriber.

7. CUSTOMER OBLIGATIONS

7.1 The Customer shall:

7.1.1 not copy any Solution or merge or incorporate any Solution (or any part thereof) with or into any other software nor (subject to any rights under any applicable law that cannot be excluded) attempt to disassemble, decompile, modify, adapt or reverse engineer any Solution;

7.1.2 not translate, modify, lease, rent, assign, transfer, disclose, loan, redistribute, sub-lease, sublicense or create derivative works from any Solution;

7.1.3 not use any Solution or any portion thereof as a component of or a base for products or services prepared for commercial sale, sublicense, lease, access or distribution;

7.1.4 maintain accurate and up-to-date records of the number and location of all copies of each relevant Solution;

7.1.5 complete in a timely and accurate manner any pre-installation checklists as may be provided by Optum from time to time;

7.1.6 supervise and control use of the Solution(s) in accordance with the terms of the limited rights granted under the Agreement;

7.1.7 use the relevant Solution(s) and Service(s) in accordance with any user documentation, guides or training (and any other reasonable instructions received from time to time) provided by Optum from time to time;

7.1.8 comply with any relevant Licence Restrictions, and the Customer shall not permit such Licence Restrictions to be exceeded at any time. For example, should the Licence Restrictions indicate a maximum number of concurrent users then the Customer shall not permit more Authorised Users to exercise, at any one time, the rights granted to it by virtue of clause 5 than the specified maximum number of concurrent users;

7.1.9 not allow any Solution(s) to become the subject of any charge, lien or encumbrance;

7.1.10 ensure that its employees, agents and other parties who are permitted to use the Solution(s) are notified of the relevant terms of the Agreement prior to such employee, agent or party using the Solution(s);

7.1.11 not sub-license, assign, novate, transfer, sell, lease, rent, charge or otherwise deal in or encumber any Solution(s) (in whole or in part);

7.1.12 not provide or otherwise make available the Solution(s) to any person other than its employees or as specified herein without Optum's prior written consent;

7.1.13 not use any Solution(s) or Service(s) in order to provide a bureau service (or any similar service) on behalf of any third party;

7.1.14 not display the Solution(s) (or any Optum Materials) on a public bulletin board, ftp site, worldwide web site, chat room or by any other unauthorised means;

7.1.15 not use the Solution(s), Optum Product(s) or any Service(s) for any immoral or illegal purpose or for any other purpose which may be determined by Optum (acting reasonably) to be threatening, abusive or harmful; and/or

7.1.16 immediately upon the date of termination or discontinuance of its right to use the same, for whatever reason, destroy all copies of the Solution within its possession or control.

7.2 The Customer shall:

7.2.1 co-operate with Optum in all matters relating to the provision of any Service(s) and its and/or the Customer Subscribers use of the relevant Optum Product(s) and/or Solution(s) (including, providing

such assistance (and access, including, remote access, to the relevant Sites, records and/or systems) as Optum may reasonably require in connection with its delivery of any Solution(s), Optum Product(s) or Service(s));

7.2.2 complete any preparation activities that Optum may require promptly and in accordance with any reasonable timescales so as to enable Optum to deliver, and the Customer to receive, any Solution(s) and/or Service(s);

7.2.3 provide to Optum, in a timely manner, such In-put Material and other information as Optum may require (and ensure that the same is accurate in all material respects);

7.2.4 if relevant, not cancel any direct debit (or amend its bank details) in relation to any payments due under the Agreement without giving reasonable advance notice to Optum (and if the Customer fails to comply with this obligation then it shall (without prejudice to its other rights and remedies) pay Optum a £100 administration charge);

7.2.5 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to its receipt of any Service(s), its use of the relevant Optum Product(s) and/or Solution(s), the use by Optum of any In-put Material, Customer Products and/or Customer Services and the use by Optum of any of the Customer's equipment, in all cases before the relevant start date;

7.2.6 promptly contact Optum's support desk to register any faults with regard to any Service(s), Optum Product(s) or Solution(s);

7.2.7 accept and install all maintenance releases, patches and updates as required by Optum from time to time in respect of the relevant Solution(s);

7.2.8 promptly notify Optum as soon as it becomes aware of: (i) any unauthorised use of any Solution(s) or Service(s) or Optum Product(s); or (ii) any errors in respect of any Solution(s) or Service(s) or Optum Product(s);

7.2.9 comply with all applicable laws (and the Acceptable Use Policy) in relation to its receipt or use of any Service(s), Optum Product(s) and/or Solution(s), and/or delivering any Customer Products and/or Services including, any professional licences and permissions (and shall ensure that its users do the same);

7.2.10 comply with such generally applicable security policies as Optum may introduce from time to time;

7.2.11 ensure that it has in place at all times, on any device used to access any Service(s) or Solution(s) adequate and appropriate protections against any computer software that contains any "time-bombs", "worms", "viruses", "Trojan horses", "protect codes", "data destruct keys" or other programming devices

that might, or might be used to, improperly access, modify, delete, damage, deactivate or disable any third party's computer software, hardware or data;

7.2.12 ensure that it implements and enforces reasonable security measures so as to minimise the risk of any unauthorised access to any Service(s), Optum Product(s) and/or Solution(s) (including enforcing appropriate password and other login security measures);

7.2.13 have in place and operate data backup and archiving procedures in accordance with good industry practice; and/or

7.2.14 have data backups and archives of the Customer Data available to it at all times in other locations in accordance with such data backup procedures.

7.3 The Customer shall (and shall ensure that in respect of each of the Sites it shall):

7.3.1 have in place an IT environment that meets any relevant Minimum Specification identified for it to properly receive and use the relevant Solution(s) and Service(s); and

7.3.2 maintain all necessary network connections and environments for it to: (i) properly receive and use the relevant Solution(s), Optum Product(s) and/or Service(s); (ii) access and use the full functionality of the relevant Solution(s) (including, in relation to the receipt of electronic prescriptions), and (iii) allow remote access to the relevant Solution(s), Optum Product(s) and/or Service(s) as required to enable to provision of any support and maintenance (and any other diagnostic) services.

7.4 The Customer shall be responsible for the security of any and all data it receives, stores, enters or processes using any Service(s), Optum Product(s) and/or Solution(s) and for taking appropriate backup copies of its data.

7.5 The Customer:

7.5.1 accepts responsibility for the selection of the Solution(s), Subscription(s), Consultation Credits, Optum Product(s) and/or Service(s) to achieve its intended results and acknowledges that none of the Solution(s), Subscription(s), Consultation Credits, Optum Product(s) and/or Service(s) have been developed to meet the individual requirements of the Customer.

7.6 If Optum's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer (its Customer Subscribers, agents, subcontractors, consultants or employees), Optum shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay (and any timescales agreed between the parties will be revised accordingly).

8. SERVICE / SOLUTION SPECIFIC TERMS

8.1 The appropriate terms set out in this clause 8 shall apply in the event that Optum is providing one or more of the Solution(s), Optum Product(s), Subscription(s) or Service(s) detailed below under the Agreement.

8.2 Survey(s)

8.2.1 The Customer can purchase either pre-populated Surveys or the Friends and Family Surveys that allow the Customer (or Customer Subscribers) to add its own questions. It is the Customers responsibility to ensure that the Survey being used is appropriate for it and/or its Customers Subscribers.

8.2.2 The Customer and/or the Customer Subscribers are responsible for ensuring that it has the appropriate consents from the relevant patient being asked to complete the Survey to both send the Survey and retain and record any information provided.

8.2.3 In relation to any colleague Survey (excluding patient or any other Surveys), the Customer can choose from the following options to check each Survey for malicious or inappropriate content before being returned to the relevant Customer Subscriber to which the Survey relates:

8.2.3.1 no Survey check – this means that all completed colleague Surveys will be returned to the relevant Customer Subscriber without any review;

8.2.3.2 Optum checking service (undertaken by Optum or one of its subcontractors, at the Customer Subscriber's option) – Optum will review each relevant completed Survey and, in the event that any malicious or inappropriate content is found, either contact the relevant Customer Subscriber to discuss before the results are shared and/or remove the relevant content before the results are shared; or

8.2.3.3 Nominated checking service – this will allow the Customer Subscriber to select who within the Customer or any relevant third party organisation, to send the Survey to for review (i.e. a supervisor, colleague or third party provider contracting directly with the Customer).

8.2.4 It is the Customer's responsibility to decide which option under clause 8.2.3 is appropriate for it and its Customer Subscribers.

8.2.5 Surveys are strictly to be used by clinicians to obtain feedback in relation to their own performance from consenting patients or other third parties.

8.3 Communities

8.3.1 The Customer agrees and acknowledges that:

8.3.1.1 use of any Community by it, the Customer Subscribers and any other FourteenFish Users (including Appraisers) is subject to each participant's agreement to, and compliance with, the Community Rules; and

8.3.1.2 Optum shall be entitled to suspend or terminate any individual user's access to any Community and/or the Community itself (for all users) in the event that the Community Rules are breached or Optum otherwise deems (acting reasonably) that it is necessary to do so (for example if there were a suspected clinical risk or breach of Data Protection Legislation).

8.3.2 Where the Customer is provided with administration rights for a Community, the Customer shall:

8.3.2.1 manage such Community in accordance with the Community Rules;

8.3.2.2 be responsible for which FourteenFish Users can or cannot access the Community (including whether the Community is a Private Community or a Public Community); and

8.3.2.3 hold Optum harmless in respect of, and be liable for, any complaints and/or claims brought against, or Losses suffered by, Optum as a consequence of the Customer's management of the relevant Community.

8.4 Consult

8.4.1 Consult requires all FourteenFish Users and/or Authorised Users to use two factor authentication in order to review any recorded consultations.

8.4.2 Consult will (on behalf of the FourteenFish User) request consent from the relevant patient to record the relevant consultation and will provide the patient with information regarding the recording and what its used for once the consultation has finished (subject to Optum being provided with relevant contact details).

8.5 FFARMS / Management Portal

8.5.1 Where the Customer has taken FFARMS, it agrees and acknowledges that it will receive and be able to view data from its Customer Subscribers, Appraisers and other relevant FourteenFish Users in relation clinician appraisals that may include personal data (including that of patients).

8.5.2 It is the Customer's responsibility to ensure that it has all necessary agreements and consents

required from Customer Subscribers, Appraisers and other relevant FourteenFish Users in order to lawfully receive and view the Customer Data referred to in clause 8.5.1.

8.5.3 The Customer is responsible for any communications it sends to Customer Subscribers through the Management Portal / FFARMS and/or other use of the Management Portal / FFARMS (including in relation to the management of the Subscriptions and/or Consultation Credits) and shall hold Optum harmless in respect of, and be liable for, any complaints and/or claims brought against, or Losses suffered by, Optum as a consequence of such communications and/or use of the Management Portal / FFARMS.

8.6 Customer Products and Services

8.6.1 Optum shall use its reasonable endeavours to host Customer Product(s) within the Solution(s) and make such Customer Product(s) available to the Customer Subscribers in accordance with the terms of the Agreement.

8.6.2 The Customer:

8.6.2.1 warrants that it is the owner and/or has all necessary licences and consents in order to:

8.6.2.1.1 provide and licence the Customer Products to Optum for it to fulfil its obligations under the Agreement; and/or

8.6.2.1.2 deliver the Customer Services to the Customer Subscribers (or any other third party);

8.6.2.2 shall at all times be responsible for the contents of the Customer Products and/or delivery of any Customer Services to FourteenFish Users (or any other third party);

8.6.2.3 shall ensure that the Customer Products and/or Customer Services do not contain any computer software that contains any "time-bombs", "worms", "viruses", "Trojan horses", "protect codes", "data destruct keys" or other programming devices that might, or might be used to, improperly access, modify, delete, damage, deactivate or disable any Solutions, third party's computer software, hardware or data; and

8.6.2.4 shall defend, indemnify and hold harmless Optum, its Affiliates, officers, directors and employees against any Losses incurred by it (or any of its Affiliates) (the "**Indemnified Parties**") arising out of any third party claim(s) made against the

Indemnified Parties that arise out of or in connection with:

8.6.2.4.1 use of the Customer Product(s) by Optum and/or relevant FourteenFish Users;

8.6.2.4.2 the Customer Services; and/or

8.6.2.4.3 any breach of this clause 8.6.

9. SUPPORT

9.1 Optum shall, during the Term, use its reasonable endeavours to provide the support the Solution(s), Optum Product(s), Subscription(s) and Service(s) (including, remote support services) in accordance with its standard support processes and procedures (and, where relevant, as more fully detailed in the Order Form).

9.2 The Service(s), Optum Product(s) and Solution(s) may, from time to time, be unavailable due to planned maintenance activities. Optum shall, where practicable communicate in advance the details of any planned maintenance of the relevant Service(s), Optum Product(s) or Solution(s) to the Customer.

9.3 Optum shall use its reasonable endeavours to achieve at least a 99% availability level for the Solution(s) each calendar month during the term of the Agreement.

9.4 Optum shall only provide support Service(s) in respect of its most current version of the relevant Solution(s) and the preceding two (2) versions.

10. CHARGES AND PAYMENT

10.1 In consideration of the provision of the relevant Service(s), Optum Product(s), Subscription(s), Consultation Credits and/or Solution(s) by Optum, the Customer shall pay the Charges as set out in the relevant Order Form(s) (as may be amended in writing from time to time in accordance with the terms of the Agreement).

10.2 Save as expressly provided for in the relevant Order Form or this clause 10.2, all Charges are payable in advance (with frequency being detailed in the Order Form (or in the absence of any such detail, annually in advance)) and on the dates specified in the Order Form (or in the absence of any such detail, on the date on which the relevant Order Form is entered into and each anniversary thereof). Any Charges payable in accordance with clause 10.12 shall be payable in arrears at the end of the relevant Order Form Year.

10.3 In the event that an Order Form provides for payment upon receipt of an invoice, then the Customer shall pay each undisputed invoice in full and in cleared funds, within thirty (30) days of the date of such invoice to a bank account nominated in writing by Optum.

10.4 Subject to any fixed pricing agreed in the relevant Order Form, Optum may adjust the Charges on an annual basis during the Term. Optum shall notify the Customer in writing of any change in the Charges.

10.5 For the avoidance of doubt all Charges are exclusive of VAT, which Optum shall add to its invoices at the appropriate rate.

10.6 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Optum on the due date, Optum may:

10.6.1 charge interest on such sum from the due date for payment at the annual rate of four percent (4%) above the base lending rate from time to time of Clydesdale Bank plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand (or, Optum may in the alternative and at its option claim interest under the Late Payment of Commercial Debts (Interest) Act 1998); and/or

10.6.2 suspend all Service(s), Subscription(s), Consultation Credit(s) the delivery of any Optum Product(s) and any licence to use (and access) any Solution(s), without any liability to the Customer, unless or until payment has been made in full.

10.7 Optum may increase the Fees (or any individual Fee) on an annual basis with effect from each anniversary of the Contract Year in line with the percentage increase in the Retail Prices Index in the preceding 12 month period. The first such increase shall take effect at the beginning of the second Contract Year and shall be based on the latest available figure for the percentage increase in the Retail Prices Index at the beginning of the last month of the previous Contract Year.

10.8 Notwithstanding any provision in the Agreement to the contrary, all sums payable to Optum under the Agreement shall become due immediately on its termination. This clause 10.8 is without prejudice to any right to claim for interest under the law, or any such right under the Agreement.

10.9 If Optum is unable to deliver any Service(s), Subscription(s), Solution(s) or Optum Product(s) ordered by the Customer (including, installation services, support service or training services) due to any act or omission on the part of the Customer then Optum shall be entitled to charge the Customer in respect of any time spent attempting to deliver the same.

10.10 Optum may, without prejudice to any other rights it may have, set off any liability of the Customer to Optum against any liability of Optum to the Customer.

Subscription / Consultation Credit Charges

10.11 The Customer agrees that, for the purposes of calculating the Charges for Subscription(s) and/or Consultation Credits, the relevant Charges shall be payable in full and are non-refundable regardless of whether:

10.11.1 a Subscription is allocated or not and/or actually used by a Customer Subscriber (in part or whole);

10.11.2 a Customer Subscriber has their FourteenFish User account blocked, suspended or terminated in accordance with the FourteenFish User Terms; and/or

10.11.3 a Customer Subscriber has their access to the relevant Product(s) withdrawn by the Customer.

10.12 At the end of each Order Form Year (for the relevant Order Form), Optum will review the number of actual Customer Subscribers for that period against the number of Subscriptions purchased by the Customer at the start of that Order Form Year. In the event that:

10.12.1 there are more Customer Subscribers than paid for by the Customer in the relevant Order Form, the Customer shall pay Optum pro-rated Charges for the period between the date each additional Customer Subscriber was added until the end of the relevant Order Form Year; or

10.12.2 there are fewer Customer Subscribers than purchased for by the Customer in the relevant Order Form,

no further Charges or refund will be payable.

10.13 Unless agreed otherwise by the parties in writing (including under an Order Form), all Subscriptions and Consultation Credits shall be renewed and invoiced by Optum in the sum that is the greater of:

10.13.1 the number of Subscriptions/Consultation Credits originally ordered by the Customer under the relevant Order Form; or

10.13.2 the actual number of Customer Subscribers for each Subscription/Consultation Credits at the start of the relevant Order Form Year.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 In the event that new inventions, designs or processes evolve in performance of, or as a result of delivering the Service(s) (including, any consulting services) or providing the Solution(s) and/or Optum Products, the Customer acknowledges that the same shall be the property of Optum.

11.2 All Intellectual Property Rights and all other rights subsisting in any Solution(s), Service(s) and/or any Optum Materials shall remain exclusively with Optum (or its third party licensor(s) as appropriate)

and the Customer shall have no rights in or to the same other than the right to use the same in accordance with the terms of the Agreement.

11.3 The Customer acknowledges that where Optum does not own the Intellectual Property Rights in any Solution(s) or Optum Materials, then the Customer's use of such Solution(s) or Optum Materials shall be conditional on Optum obtaining the necessary licence(s) from the relevant licensor(s) of such materials on such terms as will entitle Optum to sub-license such rights to the Customer.

11.4 The Customer shall not remove or alter any copyright or trade mark notices included in any Solution(s), Optum Product(s) or Optum Materials and it shall reproduce the same in any and all copies which it may make in accordance with the terms of the Agreement.

11.5 All Intellectual Property Rights and all other rights subsisting in any Customer Products or Customer Services shall remain exclusively with the Customer (or its third party licensor(s) as appropriate) and Optum shall have no rights in or to the same other than the right to use the same in accordance with the terms of the Agreement.

11.6 The Customer hereby grants Optum, or shall procure the grant to Optum of, a non-exclusive, royalty-free, licence for the Term, to use the Customer Products and/or Customer Services for the purposes of Optum performing its obligations under this Agreement including, if relevant, sub-licencing such Customer Products or Customer Services to the Customer Subscribers.

11.7 In the event a claim, relating to the infringement of any third party rights, is made, or in Optum's reasonable opinion is likely to be made, against the Customer in relation to any of the Solution(s), Service(s) and/or Optum Materials, Optum may, at its sole option:

11.7.1 procure for the Customer the right to continue to use the relevant Solution(s), Service(s) and/or Optum Material(s) in accordance with the terms of the Agreement;

11.7.2 modify the relevant Solution(s), Service(s) and/or Optum Material(s) so that it ceases to be infringing;

11.7.3 replace the relevant Solution(s), Service(s) and/or Optum Material(s) with non-infringing materials; or

11.7.4 terminate the Agreement immediately by notice in writing to the Customer.

12. CONFIDENTIALITY

12.1 Each party receiving Confidential Information belonging to the other party shall:

12.1.1 hold all Confidential Information in strict confidence and keep it secure, applying to any

Confidential Information at least the same standard of care with which it treats its own proprietary and confidential information (and in any case not less than a reasonable standard of care);

12.1.2 seek to access Confidential Information, and use Confidential Information, in each case only:

12.1.2.1 for the purpose of performing its obligations under the Agreement; and

12.1.2.2 in accordance with the Agreement;

and specifically refrain from seeking to access Confidential Information, and from using Confidential Information, for its own or any third party's benefit or in any other manner not authorized in writing by the disclosing party;

12.1.3 disclose, or permit access to, Confidential Information only to persons who are its employees, or its independent contractors, who both:

12.1.3.1 have a need to know the Confidential Information in order to give effect to the Agreement or advise in connection with it (or both); and

12.1.3.2 are subject to nondisclosure obligations substantially similar to those of the Agreement,

12.1.4 accept responsibility for any access to, use, or disclosure of any Confidential Information in violation of the terms of the Agreement and to take such steps as may be required by applicable law to enforce this obligation;

12.1.5 return to the disclosing party (or, at the disclosing party's request, destroy in such manner as not to allow its re-creation and confirm to the disclosing party the receiving party's compliance with this obligation) within fourteen (14) days of the expiry (or earlier termination) of the Agreement (or the relevant Order Form or such earlier date as the disclosing party may reasonably request) all materials (in writing or otherwise, including copies) containing any Confidential Information; and

12.1.6 promptly notify (where it is permitted to do so by law) the disclosing party if the receiving party is requested or required to disclose, or permit access to, any Confidential Information to a third party in connection with any civil or criminal investigation or any judicial or administrative proceeding, so that the disclosing party may if it chooses seek an appropriate protective order.

12.2 Notwithstanding clause 12.1, a receiving party's obligations of confidentiality contained in the Agreement shall not apply:

12.2.1 to the extent required by law, by any court of competent jurisdiction, or by an official regulatory body; or

12.2.2 to information that:

12.2.2.1 at the time of disclosure was in the public domain or comes into the public domain other than through breach of the Agreement by the receiving party;

12.2.2.2 was known by the receiving party (as established by its own records or other competent proof) before it received the Confidential Information, or was exposed to it, or had the ability to access it; or

12.2.2.3 is lawfully disclosed to the receiving party by a third party acting in good faith and not bound by a confidentiality obligation.

12.3 The obligations of confidentiality contained in the Agreement shall continue in force during the Term and for a period of seven (7) years following the termination or expiry of the Agreement.

12.4 The parties acknowledge that either party's breach of this clause 12 may cause the other party irreparable injury for which damages would not be an adequate remedy. Therefore, in the event of such breach, the non-breaching party shall be entitled to extraordinary or injunctive relief in addition to any other remedies it may have.

12.5 Without prejudice to clause 12.1.5, Optum shall, within thirty (30) days of the expiry (or earlier termination) of the Agreement for any reason (or such earlier date that the Customer may reasonably request), applying its standard Charges in respect of such Service(s):

12.5.1 return, in an industry standard format, a copy of any Customer Data that it (or its subcontractors) is electronically storing (or is under its (or its subcontractors') possession or control);

12.5.2 following the Customer's confirmation of receipt of the returned Customer Data referred to above, delete or destroy, in accordance with its standard operating procedures, the relevant Customer Data; and

12.5.3 notify the Customer, in writing, that the relevant Customer Data have been successfully returned and destroyed in accordance with this clause 12.5.

13. LIMITATIONS OF LIABILITY

13.1 THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE 13, WHICH THE CUSTOMER ACKNOWLEDGES IS A FAIR AND EQUITABLE APPORTIONMENT OF RISK UNDER THE AGREEMENT.

13.2 This clause 13 sets out the entire financial liability of each party (including any liability for the acts or omissions of its employees, agents,

consultants, third party licensor(s) and subcontractors) to the other party in respect of:

13.2.1 any breach of the Agreement;

13.2.2 any use made by the Customer of the Service(s), the Optum Product(s) and/or Solution(s) (or any part of them); and

13.2.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

13.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement (including, any terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982).

13.4 Nothing in the Agreement limits or excludes the liability of either party for:

13.4.1 death or personal injury resulting from negligence;

13.4.2 any damage or liability incurred as a result of fraud or fraudulent misrepresentation;

13.4.3 any liability which cannot be excluded or limited pursuant to applicable law; and/or

13.4.4 any indemnities provided under the Agreement.

13.5 Subject to clause 13.4, Optum shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, for any:

13.5.1 loss (whether direct or indirect) of revenue or profits;

13.5.2 loss (whether direct or indirect) of business opportunity;

13.5.3 loss (whether direct or indirect) of goodwill or injury to reputation;

13.5.4 loss (whether direct or indirect) of anticipated savings;

13.5.5 loss (whether direct or indirect) of, or corruption to, any data; or

13.5.6 indirect, consequential or special loss or damage,

in each case arising out of or in connection with the Agreement (including, pursuant to any Order Form).

13.6 Subject to clause 13.4 and clause 13.5, each party's (and its affiliates and sub-contractors) total aggregate liability (whether in contract, tort (including negligence or breach of statutory duty),

misrepresentation, equity, restitution or otherwise) arising out of or in connection with the Agreement:

13.6.1 in respect of all claims arising in any Contract Year in respect of a specific Solution, Optum Product(s) or Service will be limited to a sum equal to one hundred and twenty percent (120%) of the total Charges paid or payable by the Customer to Optum under the relevant Order Form in that Contract Year (or in respect of any and all such claims arising after the relevant Order Form has terminated or expired, a sum equal to one hundred and twenty percent (120%) of the Charges paid and/or due to be paid in the final twelve (12) months of the relevant Order Form); and

13.6.2 in respect of all other claims arising in any Contract Year will be limited to a sum equal to one hundred and twenty percent (120%) of the total Charges paid or payable by the Customer to Optum under the Agreement in that Contract Year (or in respect of any and all claims arising after the Agreement has terminated or expired, a sum equal to one hundred and twenty percent (120%) of the Charges paid or due to be paid in the final Contract Year of the Agreement).

13.7 For the avoidance of doubt, the terms of clauses 13.4 to 13.6 shall apply equally to any claim brought against any third party licensor of Optum (with those clauses being read as though a reference to Optum were to the relevant licensor) whose solution(s) or service(s) are provided to the Customer under the Agreement (and such third party may rely upon and enforce the same in accordance with the terms of the Agreement and the Contracts (Rights of Third Parties) Act 1999).

13.8 Optum recommends that the Customer obtains appropriate business continuity (or other) insurance cover in order to protect its business in the event that there is any issue with the delivery of any Service, Solution or Optum Product(s).

13.9 Optum's liability to any FourteenFish Users (including Customer Subscribers) shall be governed by the FourteenFish User Terms.

14. DATA, DATA PROTECTION & SECURITY

14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

14.2 The parties acknowledge that for the purposes of the Data Protection Legislation:

14.2.1 in respect of any Customer Data including personal data inputted into the Solution(s) by the Customer, its Authorised Users and/or any Appraisers, via Surveys and/or any data submitted to the Customer through the Solution(s) into FFARMS by a FourteenFish User (providing this only relates to

the copy submitted by such user to the Customer, not the original data held in the FourteenFish User account to which clause 14.2.2 below applies), as appropriate, the Customer shall be a Data Controller and Optum shall be a Data Processor; and

14.2.2 in respect of any data inputted into any Solution(s) by FourteenFish Users into their user account, Optum shall be a Data Controller as between it and the relevant Data Subject the under the FourteenFish User Terms.

14.3 The Customer agrees and acknowledges that each FourteenFish User (including any Customer Subscriber) may choose, in their absolute discretion:

14.3.1 which appraisal toolkit / Product it wishes to use;

14.3.2 what information or data (including Personal Data) or other data saved within their FourteenFish Solution user account they wish to share with the following parties and when:

14.3.2.1 an Appraiser;

14.3.2.2 the Customer; and/or

14.3.2.3 a Regulatory Body; and

14.3.3 which Regulatory Body and/or Appraiser (if any) to share information (including Personal Data) with.

14.4 In addition, the Customer agrees and acknowledges that each Appraiser may choose, in their absolute discretion what information and/or data (including Personal Data) it wishes to share with the Customer, FourteenFish User (including Customer Subscribers) and/or Regulatory Body within the Solution(s).

14.5 Nothing in this Agreement, save as required by law, shall compel Optum to share any information or data (including Personal Data) held within any FourteenFish User's (including Appraisers and/or Customer Subscribers) account with any third party, including the Customer and/or a Regulatory Body, without the consent or instruction of the relevant user.

14.6 Annex 1 sets out the scope, nature and purpose of processing by Optum, the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation).

14.7 Without prejudice to the generality of clause 14.1, the Customer will ensure that it has all necessary rights and notices in place to enable the lawful transfer of the Personal Data to the Optum for the duration and purposes of the Agreement.

14.8 Optum shall, in relation to any Personal Data processed (as a Data Processor) in connection with

the performance by Optum of its obligations under the Agreement:

14.8.1 process that Personal Data on the written instructions of the Customer (unless otherwise required by law);

14.8.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

14.8.3 take all reasonable steps to ensure the reliability and integrity of personnel who have access to and/or process Personal Data;

14.8.4 not transfer any Personal Data outside of the UK or the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

14.8.4.1 the Customer or Optum has provided appropriate safeguards in relation to the transfer;

14.8.4.2 the Data Subject has enforceable rights and effective legal remedies;

14.8.4.3 Optum complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

14.8.4.4 Optum complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

14.8.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

14.8.6 notify the Customer without undue delay on becoming aware of a Personal Data breach;

14.8.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of this agreement unless required by law to store the Personal Data; and

14.8.8 allow for an annual audit by the Customer or the Customer's designated auditor in respect of Optum's data processing activities under this agreement.

14.9 Optum is given general authorisation to engage third-parties to process the Personal Data ("Sub-

Processors") without obtaining any further written, specific authorisation from the Customer. Optum shall complete a written sub-processor agreement with any Sub-Processors which shall include protections substantially similar to those under the Agreement. Optum is accountable for any Sub-Processor in the same way as for its own actions and omissions. A list of Optum's material sub-processors as at the date of the Agreement is set out on its website under the 'legal' section of the site. Optum may amend this list from time to time by updating the relevant section on its website or be otherwise notifying the Customer. Any objection to an amendment to the list of Sub-Processors may be escalated for discussion within 10 days after receipt of a notification of any change. If the parties are (acting reasonably) unable to resolve the objection and Optum informs the Customer that it nevertheless intends to appoint the relevant Sub-Processor then the Customer may either: (i) accept the change; or (ii) terminate the Agreement upon written notice within one month of raising the objection (and as the Customer's sole and exclusive remedy, Optum will refund any unused prepaid fees).

14.10 The Customer shall ensure that, throughout the Term, it has all necessary rights, consents and permissions (including from any Data Subjects) such that Optum's processing of any Customer Data in accordance with the terms of the Agreement will not breach any third party rights or relevant law.

14.11 In the event of any loss of, or damage to, any Customer Data, Optum shall use its reasonable endeavours to restore the lost or damaged Customer Data from the latest backup version of the Customer Data available to it. If the loss or damage was caused by Optum then it shall undertake such restoration at its own cost and expense and in any other circumstances it shall be entitled to charge the Customer in respect of any time spent at its then standard rates.

14.12 Optum may, from time to time, use the Transaction Data (either alone or amalgamated) for its own internal business purposes or it may make the same available to third parties (including, to regulators and manufacturers). For the avoidance of doubt, the Transaction Data will comprise anonymised data only.

15. TERMINATION

15.1 Optum shall (subject to the terms of the Agreement) provide (and the Customer shall pay for) the relevant Solution(s), Subscription(s), Consultation Credits and/or Service(s) (or deliver the relevant Optum Product(s)) during the Term (subject to any specific period being specified in the relevant Order Form).

15.2 Termination of an individual Order Form (by providing the necessary notice under clause 2.1 or under this clause 15) shall result in the termination of the relevant Optum Product(s), Subscription(s),

Consultation Credits, Service(s) and/or Solution(s) detailed in the relevant Order Form.

15.3 In the event that the provision of all Services, Subscription(s), Consultation Credits, Optum Product(s) and/or Solutions under the Agreement are terminated pursuant to the relevant Order Form(s) then either party may give not less than one month's notice in writing to the other party to terminate the Agreement.

15.4 No Charges paid by the Customer pursuant to the Agreement shall be refundable by Optum on termination of the relevant Service(s), Subscription(s), Consultation Credits or Solution(s) except if the termination was pursuant to clause 14.9 or clause 15.6 or caused by Optum's breach in which case Optum will refund a pro rata amount of any relevant Charges paid in advance by the Customer for the relevant Service(s) or Solutions(s).

15.5 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement (and/or the relevant Order Form(s)) without liability to the other immediately on giving written notice to the other if:

15.5.1 the other party fails to pay any undisputed amount due under the Agreement on the due date for payment and it remains in default not less than ten (10) Business Days after being notified in writing to make such payment;

15.5.2 the other party commits a material breach of any of the terms of the Agreement provided, if such a breach is remediable, the party in breach fails to remedy that breach within thirty (30) days of that party being notified in writing of the breach; or

15.5.3 where permitted by law, the other party becomes insolvent, is the subject of a petition for creditor protection or a petition in bankruptcy or of any other proceedings under bankruptcy, insolvency or similar laws or makes an assignment for the benefit of creditors (or any event occurs, or proceeding is taken, with respect to the other party that has an effect equivalent or similar to any of the events mentioned in this clause).

15.6 Optum can terminate the Agreement, at any time, by giving the Customer not less than three (3) months' notice in writing.

15.7 In the event that the Customer wishes (for operational reasons or otherwise) to terminate the Agreement (or any individual Order Form) early for convenience then it may request that Optum consent to such termination (such consent not to be unreasonably withheld, provided always that the Customer pays to Optum any Charges due to be paid, or which would be due to be paid had the Agreement (or the relevant Order Forms) not been terminated early).

15.8 On termination of the Agreement (or on termination of an Order Form) for any reason:

15.8.1 the Customer shall immediately pay to Optum any and all outstanding unpaid invoices and interest and, in respect of any relevant Service(s), Subscription(s), Consultation Credits, Optum Product(s) and/or Solution(s) supplied but for which no invoice has been submitted, Optum may submit an invoice, which shall be payable immediately on receipt; and

15.8.2 the Customer shall immediately destroy or return to Optum (at Optum's option) all relevant Optum Materials and/or Solution(s) then in its possession, custody or control and, in the case of destruction, certify to Optum that it has done so. Until they have been returned or destroyed, the Customer shall be solely responsible for their safe keeping.

15.9 Expiry or termination of the Agreement for any reason (whether under the Agreement or otherwise) will:

15.9.1 be without prejudice to any obligation or right of any party which has accrued prior to such expiry or termination (or will thereafter accrue in respect of the period before such expiry or termination); and

15.9.2 not affect any provision of the Agreement which is expressly or by implication intended to come into effect on, or to continue in effect after, such expiry or termination.

15.10 Without prejudice to the generality of clause 15.9, the provisions of clauses 11, 12, 13, 14, 15, 17, and 26 will survive expiry or termination of the Agreement for any reason.

16. CORRUPT GIFTS AND PAYMENT

Each party shall ensure that it (and any person associated with it in connection with the Agreement) shall refrain from committing, facilitating, encouraging or allowing a Prohibited Act. Each party shall be responsible for any Prohibited Act carried out by any person associated with it in connection with the Agreement.

17. NON-SOLICITATION

17.1 During the Term and for six (6) months thereafter, the Customer shall not employ or contract for the services of any individual who is or has been:

17.1.1 in the employ of Optum; or

17.1.2 working as a contractor for Optum

and in either case has been concerned with the performance of any Service(s) and/or delivery of any Solution(s) or Optum Product(s) under the Agreement.

17.2 In the event of any breach of clause 17.1, the Customer shall promptly pay to Optum (as liquidated

damages, being a reasonable pre-estimate of Optum's loss) a sum equal to fifty per cent (50%) of the annual compensation payable by Optum to the person so hired plus all recruitment agency costs incurred in appointing a replacement for such person.

18. AUDIT

18.1 Optum shall have the right (upon giving reasonable notice and within normal business hours) to inspect the Customer's use of the relevant Solution(s), Optum Product(s) and/or Service(s) and its compliance with the terms of the Agreement.

18.2 Optum may perform an inspection under clause 18.1:

18.2.1 either itself (e.g. through an internal auditor) or through an external auditor; and

18.2.2 no more than once per year (and once during the twelve (12) months immediately following the termination or expiry of the Agreement) unless a breach of the Agreement or of security has occurred in which case a further inspection may take place.

18.3 Optum shall use its reasonable endeavours to ensure that the conduct of any inspection does not unreasonably disrupt the business of the Customer.

18.4 The Customer shall provide such access and assistance (and access, including, remote access, to the relevant Sites, records and/or systems) as Optum may reasonably require in connection with any inspection or audit. Each party shall bear its costs of preparing for and undertaking an inspection pursuant to clause 18.1.

18.5 If an inspection pursuant to clause 18.1 finds material irregularities, errors or non-compliance by the Customer then, without prejudice to any other remedies available to Optum, the Customer shall promptly remedy the same.

19. FORCE MAJEURE

Optum shall have no liability to the Customer under the Agreement if it is prevented from, or delayed in performing, its obligations under the Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including: strikes, lock-outs or other industrial disputes (whether involving the workforce of Optum or any other party), failure of a utility service or transport network, act of God, pandemic or epidemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

20. VARIATION

20.1 Without prejudice to clause 5.8, Optum may, from time to time, amend the terms of the Agreement by giving the Customer notice in writing. If any change

to the terms would have a material adverse effect on the Customer then Optum shall give not less than thirty (30) days' notice of the relevant amendment and the Customer may, at any time within sixty (60) days of receiving the relevant notice, terminate the Agreement by giving one (1) month's notice to Optum during which time the original terms shall apply (unless, during that one (1) month period Optum gives notice that it is withdrawing the proposed variation in respect of the Customer in which case the Agreement shall continue as drafted in full force and effect).

20.2 Subject to clause 20.1, no variation of the Agreement or of any of the documents referred to hereunder, shall be valid unless it is in writing and signed by or on behalf of each party.

20.3 Additional Service(s), Optum Product(s), Subscription(s) and/or Solution(s) may be added to the Service(s), Optum Product(s), Subscription(s) and/or Solution(s) provided by Optum to the Customer under the Agreement by both parties entering into new Order Forms each of which shall be subject to and be incorporated into (and form part of) the Agreement.

21. WAIVER

21.1 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

21.2 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

22. SEVERANCE

Should any of the provisions of the Agreement be ineffective due to being invalid, illegal or unenforceable (an "Ineffective Provision"), such Ineffective Provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without invalidating the remainder of such provisions or the remaining provisions of the Agreement. The parties agree to attempt to substitute for any Ineffective Provision a valid, legal and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the Ineffective Provision.

23. ENTIRE AGREEMENT

23.1 The Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

23.2 Each party represents and agrees that in entering the Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement. The only remedy available to either party for breach of the warranties will be for breach of contract under the terms of the Agreement.

23.3 In the event that there is any conflict or inconsistency between a term in an Order Form and any term in these Master Terms, the terms set forth in the relevant Order Form shall control unless the parties expressly agree otherwise in writing.

23.4 Nothing in this clause 23 shall limit or exclude any liability for fraud.

24. ASSIGNMENT

24.1 The Customer shall not, without the prior written consent of Optum, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.

24.2 Optum may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under this and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent. Without prejudice to the generality of the foregoing, Optum may transfer the Agreement to any of its affiliates at any time (Optum will provide notice of the same to the Customer).

24.3 Each party that has rights under the Agreement is acting on its own behalf and not for the benefit of another person.

24.4 Subject to clause 13.7, a person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under, the Agreement. For the avoidance of doubt, the terms of the Agreement may be varied pursuant to clause 20 without reference to any third party.

25. NOTICES

25.1 Any notice required to be given under the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at such address as may have been notified by that party for such purposes. Notices may also be sent by email where agreed between the parties to such email address as may have been nominated by the relevant party.

25.2 A notice delivered by hand (or by email (where permitted)) shall be deemed to have been received when delivered (or if delivery is not during Optum's normal working hours, at 9:00am on the first Business

Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

25.3 All notices sent to Optum shall be marked for the attention of Legal Counsel emails should be forwarded to uk.contracts@optum.com.

26. DISPUTE RESOLUTION; GOVERNING LAW AND JURISDICTION

26.1 Any dispute arising out of or in connection with the Agreement (each a “Dispute”) shall be referred by either party first to representatives of each of the parties for resolution.

26.2 If the Dispute cannot be resolved by the relevant representatives of the parties within ten (10) Business Days after the Dispute has arisen, either party may give notice to the other party in writing (each a “Notice”) that a Dispute has arisen.

26.3 Within ten (10) Business Days after the date of the Notice, the Dispute shall be referred to a senior executive of each of Optum and the Customer for resolution. If the Dispute is not resolved by agreement in writing between the parties within ten (10) Business Days after the date of the Notice, then each party shall be entitled to pursue such remedies as may be available to it under the Agreement or otherwise at law or in equity. This clause 26 is without prejudice to either party’s right to seek interim relief against the other party (such as injunction) through local courts, as defined herein, to protect its rights and interests, or to enforce the obligations of the other party.

26.4 The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of England and Wales.

26.5 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter or formation (including non-contractual disputes or claims).

Annex 1

Processing, Personal Data and Data Subjects

Processing by Optum

Purpose of Processing: for the purposes of delivering the services and meeting other obligations specified in the Agreement.

Duration of the Processing: for the term of the Agreement (together with the delivery of any post-termination obligations including any back-up copies

of data created through the delivery of the relevant services).

Nature: such processing as is necessary to enable Optum to provide the services and solutions provided for under the Agreement (which may include, from time to time: collecting, recording, organising, structuring, storing, adapting and altering, retrieving, consulting, using, disclosing by transmission, dissemination or otherwise making available, combining, restricting access to, erasing or destroying of data).

Types of Personal Data: data which may be processed under the Agreement includes: names, addresses, dates of birth, NHS numbers, telephone numbers, email addresses and other contact details. In particular it will include special category personal data relating to health (including, medical records, images and biometric data).

Categories of Data Subject: data subjects may include: members of the Customer’s staff (including those of its associated entities or third party suppliers), other clinical staff and/or FourteenFish Users and/or Appraisers with whom the Customer or the relevant patients are interacting, patients and members of the public with whom the Customer and/or FourteenFish Users are interacting.